

Mailing Date: Dec 29, 1997

COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ADMINISTRATIVE LAW JUDGE  
FOR  
PENNSYLVANIA LIQUOR CONTROL BOARD

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 97-1072
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W6-160828
v.	:	
	:	LID - 3112
PENNSYLVANIA AERIE NO. 838	:	
DANVILLE PA	:	
FRATERNAL ORDER OF EAGLES	:	
7-11 MILL STREET	:	
DANVILLE PA 17821	:	
	:	
MONTOUR COUNTY	:	
LICENSE NO. CC-1232	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Thomas M. Ballaron, Esquire

For Licensee  
NO APPEARANCE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 22, 1997, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against PENNSYLVANIA AERIE NO. 838 DANVILLE PA FOOE, License Number CC-1232 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 5.91 of the Liquor Control Board Regulations [40 Pa.Code §5.91] in that Licensee, by its servants, agents or employes, failed to notify the Board within fifteen (15) days of a change of officers, directors and/or stockholders which occurred on August 6, 1996.

The investigation which gave rise to the citation began on March 10, 1997 and was completed on May 3, 1997; and notice of the violation was sent to Licensee by Certified Mail on May 5, 1997. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on November 18, 1997 in the Pa. Dept. of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee at its address of record, 7-11 Mill Street, Danville, PA 17821 by certified mail, return receipt requested and by first class mail on September 25, 1997. The notice set forth the place of hearing as the Pennsylvania Department of Agriculture, 2130 County Farms Road, Montoursville PA 17754-9685 and the date and time as November 18, 1997 at 9:30 a.m.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On August 6, 1996, Scott A. Murray was installed as secretary of the Licensee club. (N.T. 7, Exhibit C-5).
2. Licensee sent a Change of Officers, Directors and Manager form to the Pennsylvania Liquor Control Board reflecting the installation of Mr. Murray which was dated August 27, 1996, and was received by the Liquor Control Board on September 3, 1996.

CONCLUSIONS OF LAW:

The charge in the citation is **sustained**.

DISCUSSION:

Section 5.91 of the Liquor Control Board Regulations [40 Pa.Code §5.91] requires that the Board be notified of changes in officers, directors and/or stockholders within fifteen days of the change. In this case Licensee did not send the change of notice form until twenty-one days after the change, and it was not received by the Board until some few days after that. Clearly, Licensee did not meet the time requirements of Section 5.91 (supra).

PRIOR RECORD:

Licensee has been licensed since January 1, 1934, and has had six (6) prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, to wit:

Citation No. 87-2705. 20 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises (tickets).

Citation No. 87-3679. 45 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises (poker machines).

Citation No. 90-0073. Fine \$1,000.00 and 60 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises (poker machines).

Citation No. 91-2700. Fine \$450.00 and 3 days suspension.

1. Sales to nonmembers without prior arrangement. September 7, 1991.

Citation No. 92-1305. 2 days suspension.

1. Refilled liquor bottles. March 5, 1992.
2. Fortified, adulterated and/or contaminated liquor. March 5, 1992.

Citation No. 94-0038. \$1,500.00 and 30 days suspension.

1. Improper admission of members. September 24, 1993.
2. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises (machines and sports bets). December 3 and 21, 1993.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

Under the circumstances of this case, the penalty imposed shall be a fine of \$50.00.

ORDER

THEREFORE, it is hereby ordered that Licensee PENNSYLVANIA AERIE NO. 838 DANVILLE PA, pay a fine of \$50.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked with bond forfeiture.

The fine must be paid by Treasurer's Check, Cashier's Check or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make check payable to the Commonwealth of Pennsylvania and mail to:

PLCB-Office of Administrative Law Judge  
Brandywine Plaza  
2221 Paxton Church Road  
Harrisburg PA 17110-9661

Dated this 22<sup>nd</sup> day of December, 1997.

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Daniel T. Flaherty, Jr., J.

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